GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:1068
ANSWERED ON:04.12.2015
SIT on Black Money
Kharge Shri Mallikarjun ;Natterjee Shri J. Jayasingh Thiyagaraj

Will the Minister of FINANCE be pleased to state:

(a) whether the Supreme Court appointed Special Investigation Team (SIT) has submitted its report on black money;

(b) if so, the details of recommendations made including recommendations on placing instructions on Participatory Notes (PN) and extension of the Prevention of Corruption Act to private sector to check unaccounted wealth in education and religious institutions; and

(c) the action taken by the Government thereon?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI JAYANT SINHA)

(a) & (b) The Special Investigation Team (SIT) submits its reports directly to the Hon'ble Supreme Court. So far SIT has submitted four reports inter-alia recommending the following:-
(i) There should be institutional mechanism through a dedicated set up which examine mismatch between export/import data with corresponding import/export data of other countries on at least a quarterly, if not monthly basis.
(ii) To make declaring PAN mandatory for all sales, where payment is in cash or through bank, above a value of Rs. One lakh.
(iii) To control holding of unaccounted money to a large extent, a threshold cash holding limit of Rs. 10 lakhs or 15 lakhs should be prescribed.
(iv) To make tax crime as a predicate offence.
(v) FEMA should be amended to provide for seizure and confiscation of property of equivalent value within the country, if it is held that property held abroad is in violation of section 4 of FEMA.
(vi) FIU should have access to widest possible range of financial, administrative and law enforcement information.
(vii) SEBI needs to have an effective monitoring mechanism to study unusual rise of stock prices of Companies and misuse of exemption on Long Term Capital gains tax for money laundering .
(viii) SEBI needs to examine misuse of Participatory notes for money laundering and come up with regulations where the "final beneficial owner" of P notes/ODIs are known. The information of "beneficial owner" with SEBI should be in form of individual whose KYC information is known to SEBI.
(ix) P notes are transferable in nature. SEBI needs to examine if this provision of allowing transferring of P notes is in any way beneficial for easing foreign investment. Any investor wanting to invest through P notes can always invest afresh through a Foreign Portfolio Investor (FPI) instead of buying from a P note holder.
(x) Proactive detection of creation of shell companies
(xi) All cases of Trade based money laundering detected by DRI where violation of section 132 of Customs Act, above the threshold provided for in Part B of Schedule of PMLA has been found, must be shared by DRI with the Enforcement Directorate to enable ED to take action under Prevention of Money Laundering Act.
(xii) Generation of black money in education section and through donations to religious institutions and charities must be curbed. CBDT should take appropriate action for expeditious finalization of the assessment, if required, punitive action may be taken.
(xiii) There is a necessity for establishment of additional Courts for deciding the pending cases under the Income Tax Act, 1961.
(xiv) A central KYC Registry should be established with all law enforcement agencies, Registrar of Companies and financial institutions having access to its database.
(xv) Ministry of Commerce issue necessary notification under section 20, 21 and 22 of the SEZ Act empowering DRI to carry out investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner.

(c) The following steps have already been taken by the Government on the basis of recommendations of SIT reports.

(a) Amendment made in Income Tax Act: Vide Finance Act, 2015, Income Tax Act, 1961 was further amended to prohibit acceptance or payment of an amount of Rs. 20,000 or more in cash as advance or otherwise in relation to transfer of an immovable property. Provisions are also being made to tackle splitting of reportable transactions. To improve enforcement, CBDT and CBEC are levering technology to have access to information in each other's database.
(b) Amendments made in PMLA: Similarly, vide the Finance Act, 2015, Section 132 of the Customs Act, 1962, which deals with offence relating to false declaration/documents in the transaction of any business relating to Customs has been made predicate offence under Prevention of Money-laundering Act, 2002 to curb trade based money laundering. Further, vide the Finance Act, 2015, the definition of 'proceeds of crime' under PMLA has been amended. Under the revised definition 'proceeds of crime' would also include "where such property is taken or held outside the country, then the property equivalent in value hold within the country". This provision will enable action in those cases where 'proceeds of crime' is taken or held outside the country and enable action to be taken for attachment of equivalent asset located in the country.

(c) Amendments made in FEMA: The Foreign Exchange Management Act, 1999 (FEMA) has also been amended vide Finance Act, 2015 to the effect that if any foreign exchange, foreign security of any immovable property situated outside India is held in contravention of the provisions of this Act, then action may be taken for seizure and eventual confiscation of assets of equivalent value situated in India. These contraventions are also being made liable for levy of penalty and prosecution with punishment of imprisonment up to five years.

(d) Enactment of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015: The Government has passed 'The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Bill, 2015'. This Act provides for separate taxation of any undisclosed income in relation of foreign income and assets. It inter-alia includes stringent provisions for penalties in relation to undisclosed foreign assets/income. Further, the offence of tax evasion under the new law has been made non-compoundable and the offenders will not be permitted to approach the Income-tax Settlement Commission. The new law has also amended the Prevention of Money-laundering Act, 2002 (PMLA) to include offence of tax evasion as a scheduled offence under PMLA.

(e) Establishment of a Central Know Your Customer (KYC) Registry. The Government has notified the Rules for Central KYC Registry under PMLA and steps are being taken to establish it.

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